

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GOOD TECHNOLOGY CORPORATION and)
GOOD TECHNOLOGY SOFTWARE, INC.,)
Plaintiffs,)
v.)
MOBILEIRON, INC.,)
Defendant.)

Case No. 5:12-cv-05826-PSG

**OMNIBUS ORDER RE: MOTIONS
TO SEAL**

(Re: Docket Nos. 293, 297, 299, 305)

Before the court are four administrative motions to seal several documents. “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’”¹ Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.”² Parties seeking to seal judicial records relating to dispositive motions bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure.³

¹ *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)).

² *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

³ *Id.* at 1178-79.

1 However, “while protecting the public’s interest in access to the courts, we must remain
 2 mindful of the parties’ right to access those same courts upon terms which will not unduly harm
 3 their competitive interest.”⁴ Records attached to nondispositive motions therefore are not subject
 4 to the strong presumption of access.⁵ Because the documents attached to nondispositive motions
 5 “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving
 6 to seal must meet the lower “good cause” standard of Rule 26(c).⁶ As with dispositive motions, the
 7 standard applicable to nondispositive motions requires a “particularized showing”⁷ that “specific
 8 prejudice or harm will result” if the information is disclosed.⁸ “Broad allegations of harm,
 9 unsubstantiated by specific examples of articulated reasoning” will not suffice.⁹ A protective order
 10 sealing the documents during discovery may reflect the court’s previous determination that good
 11 cause exists to keep the documents sealed,¹⁰ but a blanket protective order that allows the parties to
 12 designate confidential documents does not provide sufficient judicial scrutiny to determine whether
 13 each particular document should remain sealed.¹¹

14 In addition to making particularized showings of good cause, parties moving to seal
 15 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to
 16 Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document

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 19 ⁴ *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013).

20 ⁵ *See id.* at 1180.

21 ⁶ *Id.* at 1179 (internal quotations and citations omitted).

22 ⁷ *Id.*

23 ⁸ *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002);
 24 *see* Fed. R. Civ. P. 26(c).

25 ⁹ *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

26 ¹⁰ *See Kamakana*, 447 F.3d at 1179-80.

27 ¹¹ *See* Civ. L.R. 79-5(d)(1)(A) (“Reference to a stipulation or protective order that allows a party to
 28 designate certain documents as confidential is not sufficient to establish that a document, or
 portions thereof, are sealable.”).

is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).”¹² “Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.”¹³

With these standards in mind, the court rules on the instant motions as follows:

<u>Motion to Seal</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reason/Explanation</u>
293	MobileIron’s Motion to Exclude the Opinions and Testimony of Good’s Experts, Mr. Roy Weinstein and Dr. Hugh M. Smith	Designations highlighted in yellow at Docket No. 293-5 SEALED	Narrowly tailored to confidential business information.
293	Exhibit 1	Page 38, lines 8, 19, 23 SEALED; page 67, line 15 SEALED; page 98, lines 9, 13 SEALED; page 100, lines 16, 20 SEALED; page 153, line 1 SEALED; all other designations UNSEALED	Only sealed portions narrowly tailored to confidential business information.
293	Exhibit 2	UNSEALED	Not narrowly tailored to confidential business information.
293	Exhibit 3	UNSEALED	Not narrowly tailored to confidential business information.
293	Exhibit 4	SEALED	Narrowly tailored to confidential business information.

¹² Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d).

¹³ Civ. L.R. 79-5(e)(1).

1	293	Exhibit 5	SEALED EXCEPT ¶¶ 97-124 and Exhibit 1 at Docket No. 293-11 UNSEALED	Only sealed portions narrowly tailored to confidential business information.
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3	293	Exhibit 6	UNSEALED	Not narrowly tailored to confidential business information.
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5	293	Exhibit 7	SEALED	Narrowly tailored to confidential business information.
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7	293	Exhibit 8	SEALED	Narrowly tailored to confidential business information.
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9	293	Exhibit 9	SEALED	Narrowly tailored to confidential business information.
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11	293	Exhibit 10	SEALED	Narrowly tailored to confidential business information.
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13	293	Exhibit 11	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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15	293	Exhibit 12	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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17	293	Exhibit 14	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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19	293	Exhibit 15	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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21	293	Exhibit 17	SEALED	Narrowly tailored to confidential business information.
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23	293	Exhibit 18	SEALED	Narrowly tailored to confidential business information.
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1	293	Exhibit 20	SEALED	Narrowly tailored to confidential business information.
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3	293	Exhibit 21	SEALED EXCEPT ¶¶ 67-81 UNSEALED	Only sealed portions narrowly tailored to confidential business information.
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5	293	Exhibit 22	SEALED	Narrowly tailored to confidential business information.
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8	293	Exhibit 23	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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10	293	Exhibit 24	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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13	297	Good's Motion to Exclude Opinions of MobileIron's Proposed Experts Richard Eichmann, Earl Sacerdoti, Stephen Gray and Peter Reiher	Designations highlighted in yellow at Docket No. 297-4 SEALED.	Narrowly tailored to confidential business information
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17	297	Exhibit A	¶¶ 7, 76, 77, 85, 89, 90 SEALED; all other designations UNSEALED	Only sealed portions narrowly tailored to confidential business information.
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19	297	Exhibit C	¶¶ 11(a), 11(b), 11(d), 113 SEALED; all other designations UNSEALED	Only sealed portions narrowly tailored to confidential business information.
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22	297	Exhibit D	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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25	297	Exhibit E	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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27	297	Exhibit G	UNSEALED	No declaration in support filed with the court as required by
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			Civ. L.R. 79-5(e)(1).
297	Exhibit I	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
297	Exhibit J	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
297	Exhibit K	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
297	Exhibit L	SEALED	Narrowly tailored to confidential business information.
297	Exhibit S	SEALED	Narrowly tailored to confidential business information.
297	Exhibit T	SEALED	Narrowly tailored to confidential business information.
297	Exhibit U	SEALED	Narrowly tailored to confidential business information.
297	Exhibit V	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
297	Exhibit W	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
297	Exhibit X	UNSEALED	Not narrowly tailored to confidential business information.
299	MobileIron's Opposition to Good's Motion to Strike Portions of MobileIron's Expert Report Regarding MobileIron's Infringement Counterclaim	SEALED	Narrowly tailored to confidential business information.

299	Exhibit C	SEALED	Narrowly tailored to confidential business information.
305	Amended Exhibit X	SEALED	Narrowly tailored to confidential business information.

SO ORDERED.

Dated: May 11, 2015


 PAUL S. GREWAL
 United States Magistrate Judge

United States District Court
 For the Northern District of California